

## 9. SUSPENSION/DEBARMENT

### BASIC REQUIREMENT

To protect the public interest and prevent fraud, waste, and abuse in federal transactions, persons or entities, which by defined events or behavior, potentially threaten the integrity of federally administered programs, are excluded from participating in FTA assisted programs. Federal agencies use the government-wide nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible. Grantees are required to ensure to the best of their knowledge and belief that none of the grantee's "principals" (as defined in the governing regulation 2 CFR Part 180), subrecipients, and third-party contractors and subcontractors is debarred, suspended, ineligible, or voluntarily excluded from participation in federally assisted transactions or procurements. Grantees are strongly encouraged to review the [Excluded Parties Listing System](http://www.epls.gov/) (<http://www.epls.gov/>) before entering into any third party contracts.

### AREAS TO BE EXAMINED

1. **Disclosure**  
Disclosure to FTA if at any time a grantee or other covered entity learns that the circumstances have changed (new personnel, indictments, convictions, etc.).
2. **Lower-tiered Transactions**  
The clause with this requirement must be included in third-party contracts and subcontracts exceeding \$25,000.

### REFERENCES

1. [2 CFR Part 180](#), "OMB Guidelines To Agencies on Governmentwide Debarment And Suspension."
2. [2 CFR Part 1200](#), "Nonprocurement Suspension and Debarment."
3. [FTA Master Agreement](#).

# QUESTIONS FOR THE REVIEW

1. *Are excluded parties participating in covered transactions?*

## EXPLANATION

Each grantee is required to ensure to the best of their knowledge and belief that none of the grantee's principals, affiliates, third-party contractors, and subcontractors is suspended, debarred, ineligible, or voluntarily excluded from participation in federally assisted transactions or procurements.

## REASON FOR THE QUESTION

2 CFR Part 180

2 CFR Part 1200

FTA Master Agreement for FY2009, Section 3.b

## SOURCES OF INFORMATION

This question needs to be answered at the site visit. Information may be available in the regional office if written notice has been made. Contract files should be reviewed to determine if grantees are verifying a contractor's status before award. One means of doing this would be for a grantee to review the [Excluded Parties Listing System](http://www.epls.gov/) (<http://www.epls.gov/>) before entering into any third party contracts. If the grantee has written procurement procedures, check if they have procedures to review the EPLS or otherwise determine a contractor's status (e.g., checking a state list of ineligible contractors).

## DETERMINATION

The grantee is not deficient if it has ensured to the best of their knowledge and belief that excluded parties are not participating in a covered transaction. If excluded parties are participating in covered transactions, the grantee is deficient. If the grantee has not verified contractors' status before entering into contracts, the grantee is deficient.

## SUGGESTED CORRECTIVE ACTION

Ensure to the best of their knowledge and belief that excluded parties are not allowed to participate in covered transactions.

2. *Has the grantee included a term or condition requiring compliance with the Suspension and Debarment requirement in subgrants, procurement solicitations \$25,000 or more, and lower tiered covered transactions?*

## EXPLANATION

Any subgrantee, third-party contractor, and subcontractor whose contract \$25,000 or more must agree to comply with the Debarment and Suspension requirements. The prime contractor makes this agreement by submitting a bid or offer that includes the clause/certification found in the Appendix of the *Best Practices Procurement Manual: Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Lower Tier Covered Transaction*. The grantee also must require that proposed subcontractors with subcontracts expected to be \$25,000 or more similarly agree. It is not necessary to include a separate certification for this requirement.

## REASON FOR THE QUESTION

2 CFR Part 180

2 CFR Part 1200

## SOURCES OF INFORMATION

Solicitation documents and contract files are the primary source of this information. If the grantee has written procurement procedures, check that this requirement has been included. Be sure that the grantee is using the correct certification language.

## DETERMINATION

The grantee is not deficient if the suspension/debarment clause is included in procurement solicitation documents as required. If not, the grantee is deficient.

## SUGGESTED CORRECTIVE ACTION

The grantee must provide FTA with documentation that demonstrates how it will comply with the suspension/debarment requirements for all future, applicable procurements. If the grantee has written procurement procedures, they should be updated to include the requirement and also submitted to FTA.

3. *Has the grantee become aware of any new information, following the award of a contract or subgrant, that an excluded party is involved in any covered transactions? If yes, has the grantee promptly informed FTA in writing of this information?*

## EXPLANATION

In the event that a grantee becomes aware, after the award of a contract, that an excluded party is

participating in a covered transaction, the grantee must promptly inform FTA in writing of this information.

#### **REASON FOR THE QUESTION**

[2 CFR Part 180](#)

[2 CFR Part 1200](#)

#### **SOURCES OF INFORMATION**

Ask the grantee if they have become aware of a situation after the award of a contract or subgrant in which an excluded party is participating in a covered transaction. If so, obtain a copy of the grantee's written notification to FTA.

#### **DETERMINATION**

The grantee is not deficient if it has promptly informed FTA in writing after becoming aware that an excluded party is participating in a covered transaction. If not, the grantee is deficient.

#### **SUGGESTED CORRECTIVE ACTION**

The grantee must promptly notify FTA in writing of the excluded party's participation. A grantee may continue any covered transactions in existence at the time the party was debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded. The grantee is not required to continue the transaction and may consider termination. However, the grantee may not renew or extend the covered transaction (other than through a no-cost time extension) with the excluded party.